

ASSEMBLY, No. 3012

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 28, 2022

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Establishes farmland preservation inheritance tax deduction program within Department of Agriculture.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing a farmland preservation inheritance tax
2 deduction program within the Department of Agriculture,
3 supplementing Title 4 of the Revised Statutes and amending
4 R.S.54:34-5 and R.S.54:35-10.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. (New section) There is established a farmland preservation
10 inheritance tax deduction program within the Department of
11 Agriculture, which shall be implemented and administered by the
12 State Agriculture Development Committee.

13 The purpose of the program shall be to provide the committee
14 with a means to preserve land suitable for agricultural production
15 and the State's agricultural heritage for future generations of
16 residents when land, or other assets that convey ownership interests
17 in land, suitable for agricultural production is transferred by will or
18 the intestate laws of this State or by deed, grant, bargain, sale, or
19 gift made in contemplation of death.

20 To effectuate those purposes, the committee shall:

21 identify, evaluate, and certify transferees, distributees, and
22 beneficiaries, and groups of transferees, distributees, and
23 beneficiaries, that have received land, or other assets that convey
24 ownership interests in land, suitable for agricultural production by
25 will or the intestate laws of this State or by deed, grant, bargain,
26 sale, or gift made in contemplation of death;

27 enter into agreements and award tax deductions to certified
28 transferees, distributees, and beneficiaries, and certified groups of
29 transferees, distributees, and beneficiaries, that may be used to
30 reduce or eliminate the transfer inheritance tax due and payable in
31 connection with the transfer of the land, or other assets that convey
32 ownership interests in the land, in exchange for enrolling the land
33 suitable for agricultural production in a farmland preservation
34 program and establishing a succession plan for the transfer of the
35 ownership and managerial control of the land to the next succeeding
36 generation;

37 conduct an annual review of agreements entered into with
38 certified transferees, distributees, and beneficiaries and certified
39 groups of transferees, distributees, and beneficiaries; and

40 make and publish an annual report regarding implementation and
41 administration of the program.

42
43 2. (New section) The State Agriculture Development
44 Committee shall establish an application process and prescribe the
45 form and manner through which a transferee, distributee, or
46 beneficiary, or a group of transferees, distributees, or beneficiaries,
47 entitled to land, or other assets that convey ownership interests in

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 land, suitable for agricultural production that was transferred by
2 will or the intestate laws of this State or by deed, grant, bargain,
3 sale, or gift made in contemplation of death may file an application
4 for certification.

5 The application shall, at a minimum, require the transferee,
6 distributee, or beneficiary, or the group of transferees, distributees,
7 or beneficiaries, to:

8 provide the name and address of each transferee, distributee, or
9 beneficiary who is entitled to the land, or entitled to other assets
10 that convey ownership interests in the land, suitable for agricultural
11 production;

12 identify each transferee's, distributee's, or beneficiary's share of
13 the land suitable for agricultural production, or the nature and
14 extent of each transferee's, distributee's, or beneficiary's interest in
15 other assets that convey ownership interests in the land suitable for
16 agricultural production;

17 identify the location of the land suitable for agricultural
18 production, detailing any improvements and additions, including
19 but not limited to any dwellings, barns, farm markets, or other
20 structures or facilities used directly and primarily for agricultural
21 purposes, located on or contiguous to the land suitable for
22 agricultural production;

23 describe the purposes to which the land suitable for agricultural
24 production, together with any improvements and additions,
25 including but not limited to any dwellings, barns, farm markets, or
26 other structures or facilities used directly and primarily for
27 agricultural purposes, located on or contiguous to the land suitable
28 for agricultural production, had been devoted prior to the transfer
29 and will be devoted following the transfer;

30 indicate if the land suitable for agricultural production qualifies,
31 or is eligible to qualify, for differential property tax assessment
32 pursuant to the "Farmland Assessment Act of 1964," P.L.1964,
33 c.48 (C.54:4-23.1 et seq.);

34 indicate if the land suitable for agricultural production is, or has
35 been, enrolled in a municipally approved program or other farmland
36 preservation program established by sections 14 and 13 of
37 P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively; and

38 estimate the fair market value of the land, or other assets that
39 convey ownership interests in the land, suitable for agricultural
40 production, together with any improvements and additions,
41 including but not limited to any dwellings, barns, farm markets, or
42 other structures or facilities used directly and primarily for
43 agricultural purposes, located on or contiguous to the land suitable
44 for agricultural production.

45 The application shall be filed by a transferee, distributee, or
46 beneficiary, or by a group of transferees, distributees, or
47 beneficiaries, on or after the date the transfer inheritance tax is due
48 and payable in connection with the transfer of the land, or the

1 transfer of the other assets that convey ownership interests in the
2 land, suitable for agricultural production, but before the first day of
3 the thirteenth month beginning thereafter.

4
5 3. (New section) The State Agriculture Development
6 Committee shall establish an evaluation process and prescribe the
7 form and manner through which a review of each complete
8 application for certification filed by a transferee, distributee, or
9 beneficiary, or by a group of transferees, distributees, or
10 beneficiaries, will be conducted.

11 The review shall, at a minimum, require the committee to
12 determine:

13 the extent to which the committee's certification of a transferee,
14 distributee, or beneficiary, or a group of transferees, distributees, or
15 beneficiaries, will further the committee's efforts to preserve land
16 suitable for agricultural production;

17 the extent to which the committee's certification of a transferee,
18 distributee, or beneficiary, or a group of transferees, distributees, or
19 beneficiaries, will further the committee's efforts to preserve the
20 State's agricultural heritage for future generations of residents; and

21 the fair market value of the land, or other assets that convey
22 ownership interests in the land, suitable for agricultural production,
23 together with any improvements and additions, including but not
24 limited to any dwellings, barns, farm markets, or other structures or
25 facilities used directly and primarily for agricultural purposes,
26 located on or contiguous to the land suitable for agricultural
27 production that was transferred by will or the intestate laws of this
28 State or by deed, grant, bargain, sale, or gift made in contemplation
29 of death.

30 The review of each complete application shall be conducted by
31 the committee on or after the date the application is filed, but before
32 the first day of the fourth month beginning thereafter.

33
34 4. (New section) The State Agriculture Development
35 Committee shall establish a certification process and prescribe the
36 form and manner through which a determination as to the
37 certification of each transferee, distributee, or beneficiary, or each
38 group of transferees, distributees, or beneficiaries, that filed a
39 complete application for certification will be made by the
40 committee.

41 The determination as to the certification of each transferee,
42 distributee, or beneficiary, or each group of transferees,
43 distributees, or beneficiaries, shall, at a minimum, be based on the
44 committee's finding that:

45 the certification of the transferee, distributee, or beneficiary, or
46 the group of transferees, distributees, or beneficiaries, will result in
47 the preservation of land suitable for agricultural production;

1 the certification of the transferee, distributee, or beneficiary, or
2 the group of transferees, distributees, or beneficiaries, will result in
3 the preservation of the State's agricultural heritage for future
4 generations of residents; and the certification of the transferee,
5 distributee, or beneficiary, or the group of transferees, distributees,
6 or beneficiaries, will not result in the awarding of a tax deduction
7 that exceeds the \$5,000,000 limit on the value of deductions
8 awarded by the committee to any one certified transferee,
9 distributee, or beneficiary, or to any one certified group of
10 transferees, distributees, and beneficiaries, in accordance with
11 section 7 of P.L. , c. (C.) (pending before the Legislature
12 as this bill), and will not result in the awarding of a tax deduction
13 that exceeds the \$10,000,000 limit on the aggregate value of all
14 deductions awarded by the committee to all certified transferees,
15 distributees, and beneficiaries, and to all certified groups of
16 transferees, distributees, and beneficiaries, in a calendar year, in
17 accordance with section 8 of P.L. , c. (C.) (pending before
18 the Legislature as this bill).

19 The determination as to the certification of each transferee,
20 distributee, or beneficiary, or each group of transferees,
21 distributees, or beneficiaries, shall be made by the committee on or
22 after the date the review of each complete application is conducted,
23 but before the first day of the fourth month beginning thereafter.

24 The committee shall provide written notification to each
25 transferee, distributee, or beneficiary, or to each group of
26 transferees, distributees, or beneficiaries, that filed a complete
27 application stating the grounds for the committee's determination to
28 certify, or to not certify, the transferee, distributee, or beneficiary,
29 or the group of transferees, distributees, or beneficiaries, within five
30 days after the date the determination is made.

31

32 5. (New section) The State Agriculture Development
33 Committee shall enter into an agreement with each transferee,
34 distributee, or beneficiary, and each group of transferees,
35 distributees, or beneficiaries, that is certified by the committee.

36 The agreement shall, at a minimum, require the certified
37 transferee, distributee, or beneficiary, or the certified group of
38 transferees, distributees, or beneficiaries, to:

39 enroll the land suitable for agricultural production in a
40 municipally approved program or other farmland preservation
41 program established by sections 14 and 13 of
42 P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively, that requires
43 the certified transferee, distributee, or beneficiary, or the certified
44 group of transferees, distributees, or beneficiaries, to retain the land
45 in agricultural production for a minimum period of eight years
46 commencing on or after the first day of the first month beginning
47 after the date the agreement is entered into;

1 establish by will or by contract or agreement a succession plan
2 that provides for the transfer of the ownership and managerial
3 control of the land suitable for agricultural production to the next
4 succeeding generation on or before the first day of the thirteenth
5 month beginning after the date the agreement is entered into; and

6 pay any penalty required to be paid to the Director of the
7 Division of Taxation in the Department of the Treasury in
8 accordance with section 13 or 15 of P.L. , c. (C.) (pending
9 before the Legislature as this bill).

10 The committee shall enter into an agreement with each certified
11 transferee, distributee, and beneficiary, and each certified group of
12 transferees, distributees, and beneficiaries, on or after the date each
13 transferee, distributee, or beneficiary, or each group of transferees,
14 distributees, or beneficiaries, is certified, but before the first day of
15 the fourth month beginning thereafter.

16
17 6. (New section) The State Agriculture Development
18 Committee shall award a tax deduction to each certified transferee,
19 distributee, and beneficiary, and each certified group of transferees,
20 distributees, and beneficiaries, that has entered into an agreement
21 with the committee.

22 The amount of the tax deduction shall be equal to the fair market
23 value of the land, or other assets that convey ownership interests in
24 the land, suitable for agricultural production, together with any
25 improvements and additions, including but not limited to any
26 dwellings, barns, farm markets, or other structures or facilities used
27 directly and primarily for agricultural purposes, that are located on
28 or contiguous to the land suitable for agricultural production that
29 was transferred by will or the intestate laws of this State or by deed,
30 grant, bargain, sale, or gift made in contemplation of death.

31 The tax deduction may be used by an executor, administrator,
32 trustee, grantee, donee, or vendee personally liable for the payment
33 of the transfer inheritance tax on behalf of the certified transferee,
34 distributee, or beneficiary, or the certified group of transferees,
35 distributees, or beneficiaries, to determine, pursuant to R.S.54:33-1
36 et seq., the tax due and payable in connection with the transfer of
37 the land, or the transfer of the other assets the convey ownership
38 interest in the land, suitable for agricultural production, together
39 with any improvements and additions, including but not limited to
40 any dwellings, barns, farm markets, or other structures or facilities
41 used directly and primarily for agricultural purposes, located on or
42 contiguous to the land suitable for agricultural production by will or
43 the intestate laws of this State or by deed, grant, bargain, sale, or
44 gift made in contemplation of death.

45 If the transfer inheritance tax is paid prior to the date the tax
46 deduction is awarded, the deduction may be used by an executor,
47 administrator, trustee, grantee, donee, or vendee personally liable
48 for the payment of the transfer inheritance tax on behalf of the

1 certified transferee, distributee, or beneficiary, or the certified
2 group of transferees, distributees, or beneficiaries, to redetermine,
3 pursuant to R.S.54:33-1 et seq., the tax due and payable in
4 connection with the transfer of the land, or the transfer of the other
5 assets the convey ownership interest in the land, suitable for
6 agricultural production, together with any improvements and
7 additions, including but not limited to any dwellings, barns, farm
8 markets, or other structures or facilities used directly and primarily
9 for agricultural purposes, located on or contiguous to the land
10 suitable for agricultural production by will or the intestate laws of
11 this State or by deed, grant, bargain, sale, or gift made in
12 contemplation of death.

13 The committee shall award a tax deduction to each certified
14 transferee, distributee, and beneficiary, and each certified group of
15 transferees, distributees, and beneficiaries, that has entered into an
16 agreement with the committee on or after the date the agreement is
17 entered into, but before the first day of the second month beginning
18 thereafter.

19 The committee shall provide written notification to the Director
20 of the Division of Taxation in the Department of the Treasury
21 informing the director of the date, and the amount, of each tax
22 deduction awarded, and the name and address of each certified
23 transferee, distributee, and beneficiary, and each transferee,
24 distributee, and beneficiary who is part of a certified group of
25 transferees, distributes, and beneficiaries, within five days after the
26 date the deduction is awarded.

27

28 7. (New section) Notwithstanding the provisions of section 6 of
29 P.L. , c. (C.) (pending before the Legislature as this bill) to
30 the contrary, the amount of any tax deduction awarded by the State
31 Agricultural Development Committee to a certified transferee,
32 distributee, or beneficiary, or to a certified group of transferees,
33 distributees, or beneficiaries, shall not exceed \$5,000,000.

34

35 8. (New section) Notwithstanding the provisions of section 6 of
36 P.L. , c. (C.) (pending before the Legislature as this bill) to
37 the contrary, the aggregate amount of tax deductions awarded by
38 the State Agriculture Development Committee to all certified
39 transferees, distributees, and beneficiaries, and to all certified
40 groups of transferees, distributees, and beneficiaries, in a calendar
41 year shall not exceed \$10,000,000.

42

43 9. (New section) The State Agriculture Development
44 Committee shall conduct an annual review of agreements entered
45 into with certified transferees, distributees, and beneficiaries, and
46 certified groups of transferees, distributes, or beneficiaries, on or
47 before April 1 of each year immediately following a year in which
48 an agreement entered into by the committee is effective.

1 The review shall, at a minimum, require the committee to
2 determine:

3 if, during the preceding calendar year, a certified transferee,
4 distributee, or beneficiary, or a certified group of transferees,
5 distributees, or beneficiaries, that has entered into an agreement
6 with the committee withdrew the land suitable for agricultural
7 production from the municipally approved program or other
8 farmland preservation program established by sections 14 and 13 of
9 P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively, prior to
10 completion of the minimum eight-year period established by the
11 agreement; and

12 if, during the preceding calendar year, a certified transferee,
13 distributee, or beneficiary, or a certified group of transferees,
14 distributees, or beneficiaries, that has entered into an agreement
15 with the committee failed to establish a succession plan providing
16 for the transfer of the ownership and managerial control of the land
17 suitable for agricultural production to the next succeeding
18 generation on or before the first day of the thirteenth month
19 beginning after the date the agreement is entered into.

20 The committee shall provide written notification to the Director
21 of the Division of Taxation in the Department of the Treasury
22 informing the director of any certified transferee, distributee, or
23 beneficiary, or any certified group of transferees, distributees, or
24 beneficiaries, that has withdrawn land suitable for agricultural
25 production prior to completion of the minimum eight-year period
26 established by the agreement or has failed to establish a succession
27 plan on or before the first day of the thirteenth month beginning
28 after the date the agreement is entered into, within five days after
29 the date the review is conducted.

30

31 10. (New section) The State Agriculture Development
32 Committee shall make an annual report regarding the
33 implementation and administration of the program on or before July
34 1 of each year immediately following a year in which an agreement
35 entered into by the committee is effective.

36 The report shall include a statement from the committee
37 detailing:

38 the name and address of each certified transferee, distributee, and
39 beneficiary, and each transferee, distributee, and beneficiary who is
40 part of a certified group of transferees, distributes, or beneficiaries,
41 that has entered into an agreement with the committee during the
42 preceding calendar year;

43 the date, and the amount, of each tax deduction awarded to a
44 certified transferee, distributee, and beneficiary, or to a certified
45 group of transferees, distributees, or beneficiaries, during the
46 preceding calendar year;

47 the aggregate amount of all tax deductions awarded to all
48 certified transferees, distributees, and beneficiaries, and all certified

1 groups of transferees, distributees, and beneficiaries, under the
2 program;

3 the cost incurred by the committee to implement and administer
4 the program during the preceding calendar year; and the legislative
5 proposals, if any, made by the committee to improve the
6 implementation and administration of the program during the
7 preceding calendar year.

8 The committee shall publish the annual report online through a
9 link prominently displayed on the homepage of the Department of
10 Agriculture's Internet website, and transmit a copy of the report to
11 the Legislature, in accordance with section 2 of P.L.1991, c.164
12 (C.52:14-19.1), within five days after the date the report is made.

13

14 11. R.S.54:34-5 is amended to read as follows:

15 54:34-5. Taxes imposed by chapters 33 to 36 of this title
16 (s. 54:33-1 et seq.) shall be computed upon the clear market value
17 of the property transferred.

18 In determining the clear market value of the property the
19 following deductions and no others shall be allowed:

20 Debts of decedent; exception. a. Debts of the decedent owing at
21 the date of death, except that debts of a resident decedent owing for
22 or secured by property outside this state shall not be allowed unless:

23 (1) The property for which the debt is owing or for which it is
24 secured is subject to the tax imposed by said chapters 33 to 36; or,

25 (2) The foreign debt exceeds the value of the property securing
26 it or for which it was contracted, when the excess may be deducted;

27 Funeral and last illness expenses. b. A reasonable sum for
28 funeral expenses and last illness.

29 Administration expenses; fees of executors and attorneys. c. The
30 ordinary expenses of administration, including the ordinary fees
31 allowed executors and administrators and the ordinary fees of their
32 attorneys.

33 Proportion of state, county and local taxes. d. Such proportion of
34 the state, county and municipal taxes upon the property for the
35 current fiscal year as the elapsed portion of the said year bears to
36 the full calendar year.

37 Transfer taxes of other states or United States. e. Transfer taxes
38 paid or payable to other states or territories or the District of
39 Columbia or foreign countries on any property the transfer of which
40 is taxable hereunder, but the amount due or paid the government of
41 the United States as a federal estate tax shall not be considered as
42 an expense of administration and shall not be allowed as a
43 deduction.

44 Tax deduction for farmland preservation. f. The amount of any
45 tax deduction awarded by the State Agriculture Development
46 Committee under the farmland preservation inheritance tax
47 deduction program established by P.L. , c. (C.) (pending

1 before the Legislature as this bill).

2 (cf: R.S.54:34-5)

3
4 12. R.S.54:35-10 is amended to read as follows:

5 54:35-10. When any amount of a tax assessed pursuant to
6 chapters 33 to 36 of this Title (section 54:33-1 et seq.) shall have
7 been paid erroneously to the Director of the Division of Taxation or
8 paid to the Director of the Division of Taxation prior to the
9 awarding of a tax deduction by the State Agriculture Development
10 Committee under the farmland preservation inheritance tax
11 deduction program established by P.L. , c. (C.) (pending
12 before the Legislature as this bill) that is used to redetermine a tax
13 liability, the Director of the Division of Budget and Accounting
14 may, on satisfactory proof of such erroneous payment to the
15 Director of the Division of Taxation and duly certified by him to the
16 Director of the Division of Budget and Accounting, draw his
17 warrant on the State Treasurer, in favor of the executor,
18 administrator, person or persons who have paid the tax in error, or
19 who may be lawfully entitled to receive the same, for the amount of
20 the tax so paid in error, but all applications for repayment of such
21 tax shall be made within 3 years from the date of such payment,
22 from the date the tax deduction is awarded, or from the date of the
23 final determination of a court of competent jurisdiction which
24 establishes the fact that the decedent had no legal or equitable
25 interest in the property on which the tax was assessed and
26 erroneously paid, whichever is later; provided, however, no refund
27 shall be made where such final determination occurs more than 20
28 years after the date of death of the decedent.

29 (cf: P.L.1956, c.54, s.1)

30
31 13. (New section) A certified transferee, distributee, or
32 beneficiary, or a certified group of transferees, distributees, or
33 beneficiaries, that is awarded a tax deduction by the State
34 Agriculture Development Committee, but withdraws the land
35 suitable for agricultural production from the municipally approved
36 program or other farmland preservation program established by
37 sections 14 and 13 of P.L.1983, c.32 (C.4:1C-21 and 4:1C-20),
38 respectively, prior to completion of the minimum eight-year period
39 established by the agreement shall be required to pay to the Director
40 of the Division of Taxation in the Department of the Treasury a
41 penalty in an amount equal to the difference between the transfer
42 inheritance tax that would have been due and payable without the
43 benefit of the deduction and the transfer inheritance tax paid with
44 the benefit of the deduction.

45 The director shall assess the amount of any penalty required to
46 be paid, give notice of the assessment to the certified transferee,
47 distributee, or beneficiary, or the certified group of transferees,
48 distributees, or beneficiaries, and make demand upon the certified

1 transferee, distributee, or beneficiary, or the certified group of
2 transferees, distributees, or beneficiaries, for payment of the
3 assessment to be made in full within 30 days of the date notice and
4 demand is given by the director.

5 If payment of an assessment is not made in full within 30 days of
6 the date notice and demand is given by the director, interest shall
7 accrue and be due to the director on the unpaid amount at the rate of
8 three percentage points above the prime rate assessed for each
9 month or fraction thereof, compounded annually at the end of each
10 year, from the date notice and demand was given until the date the
11 assessment, and any interest that has accrued on the assessment, is
12 fully paid.

13 The assessment, and any interest on the assessment, that is due to
14 the director shall be a deficiency with respect to the payment of a
15 State tax: the director shall have all rights, powers, and duties
16 authorized by the State Uniform Tax Procedure Law, R.S.54:48-1 et
17 seq., to ensure payment, collection, or recovery of a deficiency and
18 the certified transferee, distributee, or beneficiary, or the certified
19 group of transferees, distributees, or beneficiaries, required to pay
20 the deficiency shall be afforded all protections, rights, and remedies
21 allowed by R.S.54:48-1 et seq., to challenge, protest, or appeal the
22 deficiency or any determination or decision made in connection
23 with the deficiency.
24

25 14. (New section) Notwithstanding the provisions of section 13
26 of P.L. , c. (C.) (pending before the Legislature as this bill)
27 to the contrary, the Director of the Division of Taxation in the
28 Department of the Treasury may waive the requirement to pay the
29 amount of any penalty required to be paid to the director, if the
30 director determines that the withdrawal of the land from a
31 municipally approved program or other farmland preservation
32 program established by sections 14 and 13 of
33 P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively, prior to
34 completion of the minimum eight-year period established by the
35 agreement was due to the death or incapacitating illness of, or other
36 serious hardship or bankruptcy involving, the certified transferee,
37 distributee, or beneficiary, or a transferee, distributee, or
38 beneficiary who is part of a certified group of transferees,
39 distributees, or beneficiaries.
40

41 15. (New section) A certified transferee, distributee, or
42 beneficiary, or a certified group of transferees, distributees, or
43 beneficiaries, that is awarded a tax deduction by the State
44 Agriculture Development Committee, but fails to establish a
45 succession plan providing for the successful transfer of the
46 ownership and managerial control of the land suitable for
47 agricultural production to the next succeeding generation on or
48 before the first day of the thirteenth month beginning after the date

1 the agreement is entered into shall be required to pay to the Director
2 of the Division of Taxation in the Department of the Treasury a
3 penalty in an amount equal to the difference between the transfer
4 inheritance tax that would have been due and payable without the
5 benefit of the deduction and the transfer inheritance tax paid with
6 the benefit of the deduction.

7 The director shall assess the amount of any penalty required to
8 be paid, give notice of the assessment to the certified transferee,
9 distributee, or beneficiary, or the certified group of transferees,
10 distributees, or beneficiaries, and make demand upon the certified
11 transferee, distributee, or beneficiary, or the certified group of
12 transferees, distributees, or beneficiaries, for payment of the
13 assessment to be made in full within 30 days of the date notice and
14 demand is given by the director.

15 If payment of an assessment is not made in full within 30 days of
16 the date notice and demand is given by the director, interest shall
17 accrue and be due to the director on the unpaid amount at the rate of
18 three percentage points above the prime rate assessed for each
19 month or fraction thereof, compounded annually at the end of each
20 year, from the date notice and demand was given until the date the
21 assessment, and any interest that has accrued on the assessment, is
22 fully paid.

23 The assessment, and any interest on the assessment, that is due to
24 the director shall be a deficiency with respect to the payment of a
25 State tax: the director shall have all rights, powers, and duties
26 authorized by the State Uniform Tax Procedure Law, R.S.54:48-1 et
27 seq., to ensure payment, collection, or recovery of a deficiency and
28 the certified transferee, distributee, or beneficiary, or the certified
29 group of transferees, distributees, or beneficiaries, required to pay
30 the deficiency shall be afforded all protections, rights, and remedies
31 allowed by R.S.54:48-1 et seq., to challenge, protest, or appeal the
32 deficiency or any determination or decision made in connection
33 with the deficiency.

34

35 16. (New section) Notwithstanding the provisions of section 15
36 of P.L. , c. (C.) (pending before the Legislature as this bill)
37 to the contrary, the Director of the Division of Taxation in the
38 Department of the Treasury may waive the requirement to pay any
39 penalty required to be paid to the director, if the director determines
40 that the failure to establish a succession plan providing for the
41 transfer of the ownership and managerial control of the land
42 suitable for agricultural production to the next succeeding
43 generation on or before the first day of the thirteenth month
44 beginning after the date the agreement is entered into was due to the
45 death or incapacitating illness of, or other serious hardship or
46 bankruptcy involving, the certified transferee, distributee, or
47 beneficiary, or a transferee, distributee, or beneficiary who is part of
48 a certified group of transferees, distributees, or beneficiaries.

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transferees, distributees, and beneficiaries, and certified groups of
transferees, distributees, and beneficiaries, that may be used to
reduce or eliminate the transfer inheritance due and payable in
connection with the transfer of the land, or other assets that convey
ownership interests in the land, in exchange for enrolling the land

1 suitable for agricultural production in a farmland preservation
2 program and establishing a succession plan for the transfer of the
3 ownership and managerial control of the land to the next succeeding
4 generation;

5 conduct an annual review of agreements entered into with
6 certified transferees, distributees, and beneficiaries and certified
7 groups of transferees, distributees, and beneficiaries; and

8 make and publish an annual report regarding implementation and
9 administration of the program.

10 The bill provides that the amount of the tax deduction awarded to
11 each certified transferee, distributee, and beneficiary, and each
12 certified group of transferees, distributees, and beneficiaries, is
13 equal to the fair market value of the land, or other assets that
14 convey ownership interests to the land, suitable for agricultural
15 production, together with any improvements and additions,
16 including but not limited to any dwellings, barns, farm markets, or
17 other structures or facilities used directly and primarily for
18 agricultural purposes, that are located on or contiguous to the land
19 suitable for agricultural production that was transferred by will or
20 the intestate laws of this State or by deed, grant, bargain, sale, or
21 gift made in contemplation of death. The bill specifies that the
22 deduction may be used to determine or redetermine the transfer
23 inheritance tax due and payable in connection with the transfer of
24 the land, or the transfer of the other assets the convey ownership
25 interest in the land, suitable for agricultural production.

26 The bill imposes certain caps on the value of tax deductions that
27 may be awarded. Under the bill, the amount of any tax deduction
28 awarded by the committee to a certified transferee, distributee, and
29 beneficiary, or to a certified group of transferees, distributees, and
30 beneficiaries, cannot exceed \$5 million, and the aggregate amount
31 of deductions awarded by the committee to all certified transferees,
32 distributees, and beneficiaries, and to all certified groups of
33 transferees, distributees, and beneficiaries, in a calendar year cannot
34 exceed \$10 million.

35 The bill imposes certain penalties on certified transferees,
36 distributees, and beneficiaries, and certified groups of transferees,
37 distributees, and beneficiaries, that withdraw land suitable for
38 agricultural production from the farmland preservation program
39 prior to completion of the minimum eight-year period or that fail to
40 establish a succession plan within the time permitted under the
41 agreement. The bill provides that the amount of the penalty is equal
42 to the difference between the transfer inheritance tax that would
43 have been due and payable without the benefit of the tax deduction
44 awarded by the committee and the transfer inheritance tax paid with
45 the benefit of the deduction, and authorizes the director to assess
46 and collect any penalties imposed.

47 The bill permits the director to waive penalties under certain
48 circumstances. Under the bill, the director may waive a penalty

1 required to be paid to the director, if the withdrawal of the land
2 from the farmland preservation program or failure to establish a
3 succession plan is due to the death or incapacitating illness of, or
4 other serious hardship or bankruptcy involving, the certified
5 transferee, distributee, or beneficiary, or a transferee, distributee, or
6 beneficiary who is part of a certified group of transferees,
7 distributees, or beneficiaries.

8 The bill authorizes the committee, in consultation with the
9 director, to adopt rules and regulations necessary to effectuate the
10 purposes of the bill, and allows for the immediate filing of those
11 rules and regulations with the Office of Administrative Law,
12 effective for a period not to exceed 360 days following the bill's
13 effective date.

14 The bill takes effect immediately upon enactment and applies to
15 transfers from the estates of persons dying on or after January 1
16 next following the date of enactment.